

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**GENWORTH LIFE AND ANNUITY
INSURANCE COMPANY (f/k/a FIRST
COLONY LIFE INSURANCE COMPANY),**

Plaintiff,

vs.

**DOROTHY CIURA and
LISA VANDENBERGHE (n/k/a LISA ORTEGA)**

Defendants.

No.: 07 C 6400

**GENWORTH LIFE AND ANNUITY INSURANCE COMPANY'S MOTION FOR FINAL
JUDGMENT ORDER IN INTERPLEADER**

Genworth Life and Annuity Insurance Company (f/k/a First Colony Life Insurance Company) ("GLAIC") by and through its attorneys, William A. Chittenden III, Stuart F. Primack and Chittenden, Murday & Novotny LLC, moves this Court for the entry of a Final Judgment Order in Interpleader. In support of its Motion, GLAIC states as follows:

1. On November 13, 2007, GLAIC filed its Complaint for Interpleader ("Complaint for Interpleader") against defendants Dorothy Ciura and Lisa Vandenberghe (n/k/a Lisa Ortega) pursuant to 28 U.S.C. §§ 1335, 1397 and 2361 (2007) to resolve competing claims to the insurance proceeds payable pursuant to a GLAIC life insurance policy, Policy No. 2100851, issued to and insuring the life of Steven Ciura (the "Policy").

2. On November 20, 2007 this Court granted GLAIC's Motion for Leave to Deposit its total admitted liability and, in accordance with this Court's Order, GLAIC deposited its admitted liability in the amount of Fifty-Five Thousand, Eight Hundred Five and 47/100 Dollars

(\$55,805.47) into the registry of this Court, subject to this Court's further orders as to whom among the Defendants is entitled to receive those proceeds.

3. On November 20, 2007, this Court granted GLAIC's Motion for Restraining Order and entered an order restraining and enjoining Dorothy Ciura from continuing the litigation titled "Dorothy Ciura v. First Colony Life Insurance Company and Lisa Vandenberghe," Case No. 2006 CH 00764, proceeding in the Circuit Court of the Eighteenth Judicial Circuit, DuPage County Illinois, and restraining and enjoining Dorothy Ciura and Lisa Vandenberghe (n/k/a Lisa Ortega), or any person or entity claiming through them, from commencing or prosecuting any proceeding against Genworth Life and Annuity Insurance Company (f/k/a First Colony Life Insurance Company) in any state or federal court or other forum with respect to the insurance proceeds payable under the Policy and on account of the death of Steven Ciura.

4. On November 28, 2007, in an attempt to save costs of service and in accordance with Rule 4(d) of the Federal Rules of Civil Procedure, GLAIC requested that Defendant Dorothy Ciura waive service of summons by mailing two (2) copies of the Waiver of Service of Summons form and the Complaint for Interpleader to her at her home address.

5. On or about December 6, 2007, Dorothy Ciura executed and returned the Waiver of Service of Summons form, thereby agreeing to waive service.

6. On January 21, 2008, Defendant Lisa Vandenberghe (n/k/a Lisa Ortega) was duly served with the Complaint for Interpleader and, on February 13, 2008, filed her Answer to the Complaint for Interpleader and a Cross-Claim against Dorothy Ciura.

7. On March 10, 2008, GLAIC filed a Motion for Entry of Default against Dorothy Ciura as a result of her failure to appear and file a responsive pleading to the Complaint for

Interpleader. On March 13, 2008, GLAIC's Motion for Entry of Default against Dorothy Ciura was entered and continued to April 2, 2008.

8. On April 2, 2008, GLAIC's Motion for Entry of Default will be heard and Dorothy Ciura will have either appeared through counsel and filed a responsive pleading or will be found in default pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure.

9. This Court has jurisdiction over the subject matter of this cause and over the parties.

10. GLAIC has done all that is required by law to perfect its Interpleader Action.

11. GLAIC has properly served a copy of this Motion for Final Judgment Order in Interpleader on the Defendants.

12. GLAIC submits its Proposed Final Judgment Order in Interpleader herewith as Exhibit 1.

WHEREFORE, Genworth Life and Annuity Insurance Company (f/k/a First Colony Life Insurance Company) respectfully requests this Court enter an Order:

A Entering judgment in favor of Genworth Life and Annuity Insurance Company (f/k/a First Colony Life Insurance Company) and against Defendants Dorothy Ciura and Lisa Vandenberghe (n/k/a Lisa Ortega) on the Complaint for Interpleader;

B Releasing and discharging Genworth Life and Annuity Insurance Company (f/k/a First Colony Life Insurance Company), its successors, assigns, representatives, agents, attorneys, and all of its affiliated companies, including officers, directors, and employees from any and all liability to Defendants Dorothy Ciura and Lisa Vandenberghe (n/k/a Lisa Ortega), or any person or entity claiming through them;

C Permanently and perpetually restraining and enjoining Defendants Dorothy Ciura and Lisa Vandenberghe (n/k/a Lisa Ortega), or any person or entity claiming through them, from commencing or prosecuting any proceeding or claim in any federal, state or administrative court or other forum with respect to the insurance proceeds payable under the Policy and on account of the death of Steven Ciura, including, but not limited to, the litigation proceeding in the Circuit Court of the Eighteenth Judicial Circuit, DuPage County Illinois, titled “Dorothy Ciura v. First Colony Life Insurance Company and Lisa Vandenberghe,” Case No. 2006 CH 00764;

D Excusing Genworth Life and Annuity Insurance Company (f/k/a First Colony Life Insurance Company) from further attendance upon this cause and dismissing with prejudice Genworth Life and Annuity Insurance Company (f/k/a First Colony Life Insurance Company) from this cause with an express finding that, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, there is no just reason for delaying either the enforcement of appeal of this Order or both;

E Requiring Defendants Dorothy Ciura and Lisa Vandenberghe (n/k/a Lisa Ortega), or any person or entity claiming through them, to litigate their entitlement to the Policy proceeds among themselves and without further involving Genworth Life and Annuity Insurance Company (f/k/a First Colony Life Insurance Company); and

F Granting Genworth Life and Annuity Insurance Company (f/k/a First Colony Life Insurance Company) such other and further relief as this Court deems just and appropriate.

Respectfully submitted,

GENWORTH LIFE AND ANNUITY
INSURANCE COMPANY (f/k/a FIRST COLONY
LIFE INSURANCE COMPANY)

By: /s/ Stuart F. Primack
One of its Attorneys

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Certificate of Service

I hereby certify that on **March 26, 2008**, I caused to be filed with the Clerk of the U.S. District Court, Northern District of Illinois, Eastern Division, **Genworth Life and Annuity Insurance Company's Motion for Final Judgment Order in Interpleader** via electronic filing, and via facsimile and regular mail to:

Craig H. Greenwood
Attorney at Law
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/s/ Stuart F. Primack
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